

Notice of Allowability	Application No. 10/730,590	Applicant(s) CHANYA, MARK G.	
	Examiner	Art Unit	
	Gary Estremsky	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to telephone interview of 1/5/06.
2. ☒ The allowed claim(s) is/are 8, 11, 12, 15, 20-22 and 24.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
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| <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>hereto</u>. 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____ |
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DETAILED ACTION

Examiner's Amendment

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Laura Hargitt on 1/5/06.

Change the dependence of claim 21 from cancelled "claim 13" to --claim 15--.
Cancel claim 23.

Remarks

2. In telephone interview on 1/5/06 examiner indicated that it was believed that all previous inquiries regarding the Application had been answered at least in a general sense, via telephone message. More specifically, the status of claim 3 in the previous Office Action was not clear and consistent throughout the papers of the previous Office Action; the Office Action Summary form indicated that the claim was rejected, while the Detailed Action did not present a grounds of rejection. Since no grounds of rejection is provided in the Office action, the claim should not be considered as properly rejected.

MPEP 710.06 provides further information on corrections to Office actions and re-starting of time period, when available.

The amendment filed 12/20/05 has cancelled claim 3, whereby Applicant's request in the Remarks filed with the amendment of 12/20/05 as to its allowability was the main focus of the telephone interview of 1/5/06. The prior art applied in the previous Office action has been carefully considered and examiner indicated that claim 3 wasn't and shouldn't have been rejected in view of the Meinke '786 reference applied against claim 2 (from which claim 3 depended) in that Office action. The examiner indicated that the Office action did not properly examine/address the claim and suggested that the claim could be added as a (new) claim 26 in a Supplemental Amendment by facsimile to provide for its proper examination. Applicant asked that prosecution proceed without such amendment and without prejudice to the scope of invention set forth in cancelled claim 3 since the Application is otherwise in condition for allowance.

Allowable Subject Matter

1. Claims 8, 11, 12, 15, 20-22, and 24 are allowed.

Conclusion

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 4,652,030 to Streett.

U.S. Pat. No. 4,778,207 to Gergoe.


U.S. Pat. No.6,460,905 to Suss.

U.S. Pat. No.6,923,481 to Bruderick.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Estremsky
Primary Examiner
Art Unit 3676